# SUPREME COURT'S DECISIONS IN COLONIAL CASES-

MR. JUSTICE BROWN WRITES THE OPINIONS IN THE DE LIMA AND DOWNES SUITS, WHICH INVOLVE OUR RELATIONS WITH THE NEWLY ACQUIRED ISLAND POS-SESSIONS-STRONG DISSENTING OPINIONS.

## **JUSTICE HARLAN HAS FEARS** OF LEGISLATIVE ABSOLUTISM.

Mr. Justice Harlan, in his dissenting opinion, says:

"I take leave to say that, if the principle now announced should ever receive the sanction of a majority of this court, the result will be a radical and mischievous change in our system of government.

"We will, in that event, pass from the era of constitutional liberty, guarded and protected by a written Constitution, into an era of legislative absolutism, in respect to many rights dear to all peoples who love freedom.

"In my opinion, Congress has no existence and can exercise no authority outside of the Constitution. Still less is it true that Congress can deal with new territories just as other nations have done or may do with their new

"This nation is under the control of a written Constitution which is the supreme law of the land and the only source of the powers which our Government or any branch or officer of it may exercise at any time or at any place.

"The idea that this country may acquire territories anywhere upon the earth by conquest or treaty and hold them as mere colonies or provinces, is wholly inconsistent with the spirit and genius, as well as with the words of the

"It will be an evil day for the American liberty if the theory of a government outside the supreme law of the land finds lodgment in our constitutional

#### BY A VOTE OF FIVE TO FOUR, SU PREME COURT DECIDES CONGRESS CONTROLS THE COLONIES.

Washington, May 27.—Justice Brown to-day delivered the opinion of the Supreme Court of the United States in the case of Downes vs. Collector Bidwell of the Port of New York, in which suit was brought by Downes to recover back duties to the amount of \$559.35, exacted and paid under protest upon certain oranges consigned to the plaintiff at New York, and brought thither from the Port of San Juan in the thither from the Port of San Juan in the island of Porto Rico during the month of

island of Porto Rico during the month of November, 1909.

This case involved the question whether merchandise brought into the Port of New York from Porto Rico since the passage of the Foraker act is exempt from duty, notwithstanding the third section of that act, which requires the payment of "fifteen per cent of the duties which are required to be levied, collected and paid upon like articles of merchandise imported from foreign countries."

The Circuit Court of the United States for the Southern District of New York sustained the Government in this position in imposing a duty.

of the Circuit Court, saying:

We are of opinion that the Island of Porto Rico is a territory appurignant and belonging to the United States, but not a part of the United States within the revenue clause of the Constitution; that the Forsker act is constitutional so far as it imposes duties upon imports from such island, and that the plaintiff cannot recover back the duties exacted in this case.

The onition of the court went into the Care.

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The opinion of the court went into the case very fully. Justice Brown, early in his opinion. outlined the distinction between this case and the De Lima case, which had just been decided, saying:

In the case of De Lima vs. Bidwell, we hold that upon the ratification of the treaty of peace with frain. Port Rico cessed to be a foreign country, and that duties were no longer collectible upon merchandise brought from that island. We are now asked to hold that it became a part of the United States within that provision of the United States. If Porto Rico be a part of the United States, the Foraker act, imposing duties upon its products, is unconstitutionally clause, but because, by section 9, vessels bound to or from one State 'cannot be obliged to entar, clear or pay duties in another.'

The case also involves the broader question wasther the revenue clauses of the Constitution and that instrument in the opinion of its contemporaries, in the practical construction put upon it by Congress, and in the decisions of this court.

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connection.
THE LOGICAL INFERENCE PROM THIS IS THAT IF CONGRESS HAD POWER TO ACCURE NEW TERRITORY. WHICH IS CONCEDED. THAT POWER WAS NOT HAMPERED BY THE CONSTITUTIONAL PROVISIONS. as: sting, then, from the opinion of this expressions unnecessary to the dispo-the particular case, and gleaning there-exact point decided in each, the foi-responsitions may be considered as es-

In the last paragraph of his opinion, before announcing the Court's opinion, Justice Brown said:

JUSTICE WHITE DELIVERS

A CONCURRING OPINION.

Following Justice Brown's opinion in the Downes case, Justice White delivered an and McKenna united, concurring in the de-

cree affirming the judgment of the Downes case, but placing it on grounds which he said were not only different from, but in conflict with, those expressed by Justice Brown.

been incorporated into and become an integral part of the United States?

Considering this question, Justice White affirmed that the rule of international law was that the relation which an acquired country would bear to the acquiring country, in the absence of treaty stipulations, was to be determined by the country conformably to its institutions. The United States possessed the same powers on this subject as any other nation.

Justice White then went exhaustively into the history of the United States, and of its acquired territories, in support of his assertion that our history from the beginning had manifested that this power was possessed by the United States. Continuing, he said:

ritories are States, as that word is used in treaties with foreign Powers, with respect to the ownership, disposition and inheritance of property.

4. That the Territories are not within the clause of the Constitution providing for the creation of a Supreme Court, and such inferior courts as Congress may see fit to establish.

5. That the Constitution does not apply to foreign countries or to trials therein conducted, and that Congress may lawfully provide for such trials before conquiar tribunals, without the intervention of a grand or petit jury.

6. That where the Constitution has been once formally extended by Congress to Territories, neither Congress nor the territorial signisture can smart laws inconsistent therewith.

Dred Scott Case.

In his opinion, Justice Brown referred at length to the decision of Chief Justice Taney in the Dred Scott case, giving especial consideration to the sentiment expressed by him that "there is no power given by the Constitution to the Federal Government to establish or maintain colonies bordering on the United States, or at a distance, to be ruled and governed at its own pleasure; and if a new State is admitted it needs no further legislation by Congress, because the Constitution itself defines the relative rights and powers and duties of the State, and the citizens of the State, and the Federal Government. But no power is given to acquire a territory to be held and governed permanently in that character."

Justice Brown expressed the opinion that it was unfortunate in view of the excited condition of the country at the time the Scott opinion was rendered, just before the beginning of the Civil War, that the Chief Justice had felt impelled to discuss the question upon its merits. "It is," he said, "sufficient to say that the country did not acquiesce in the opinion, and that the Civil War, which shortly thereafter followed, produced such changes in judicial, as well as public sentiment, as to seriously impair the authority of this case."

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He added:

The power to prohibit slavery in the Territories is so different provisions of the Constitution that the constitution extracted to the Constitution control it. Whilst this was true university of the considered as analogous, unless we assumed broadly that every clause of the Constitution attached to the Territories as well as to the States—a claim quite inconsistent with the position of the court in the Canter case. The difficulty with the Dred Stott case was that the court refused to make a distinction between property in general and a wholly exceptional class of property.

Taking up the case in hand, the Justice continued his opinion, saying:

The practical interpretation put by Congress upon the Constitution has long been continued and the Constitution has absolutely denied."

Sele and Only Issue is Had Potto Rico, at the Potto Rico,

also of opinion that power to acquire by treaty implies not only the power to the territory, but to prescribe upon what United States will receive its inhab-ity that their status shall be in what tice Marshall termed the "American

was to admit the power to acquire and immediately to deny its beneficial existence.

To hold that the treaty-making power cannot insert conditions in acquiring would deprive that power of a necessary stribute and would confer upon it the authority to destroy the treaty-making power of the united States. If millions of inharitants of allen territory, if acquired by treaty of the United States, is peaking through the corporated into the United States, are whole structure of the government can be overthrown.

While thus aggrandising the treaty-making power on the same time minimizes it on the other, in that it strips that authorizes it is demended to the fact that the treaty of peace expressly provided that the civil rights and political status of the inhabitants of the latestance.

The result of what has been sai

#### CHIEF JUSTICE FULLER AND OTHERS, DISSENTING, UPHOLD SUPREMACY OF THE CONSTITUTION.

The chief dissenting opinion in the The chief dissenting opinion in the Downes case was announced by Chief Justice Fuller, Justices Harlan, Brewer and Peckham joining in the dissent. He said the majority, though widely differing in their reasoning, seemed to concur in the view that Porto Rico belongs to the United States, but nevertheless is not a part of the United States subject to the provisions of the Constitution in respect to taxes.

of the Constitution in respect to taxes.

The Foraker act, under which the duties were levied, created a complete form of government for Porto Rico, with a special provision that the taxes levied in the United States on Porto Rican exports should be held as a special fund for Porto Rico's benefit. It was admitted that on its face the part of the act with reference to

Down. Chief Justice Fuller then advanced the proposition enunciated in Marbury vs. Madison, first Cranch, that the Constitution was written in order to define and limit and written in order to define and limit and keep within its restricted boundaries all persons and departments of Government, and was meant to leave no room for the play and action of purely personal and arbitrary power. He added:

play and action of purely personal and arbitrary power. He added:

From Marbury vs. Madison to the present day no utterance of this court has intimated a doubt that, in its operation on the people by whom and for whom it was established, the rational Government is a Government of enumerated powers, the exercise of which is restricted to the use of means appropriate and plainly "intra source, and which are "not prohibited, but consistent with the letter have spart of the Constitution."

All powers usergated by the people to their agents are not enlarged by the expansion of the domain within which they are exercised. When the restriction on the exercise of a particular power by a particular agent is ascertained, that is an end of the question.

To hold otherwise is to overthrow the basis of our constitutional law, and, moreover, in effect, to reassert the proposition that the States and not the people created the Government.

There are many prohibitory clauses in the Constitution, and this court repeatedly has given effect to them in respect of the Territories and the District of Columbia.

The power of the United States to acquire territory by consent, by treaty or by discovery and occupation is not disputed, nor is the proposition that in all international relations, interests and responsibilities the United States is a separate, independent and sovereign nation, but it does not derive its powers from international law, which, though a part of our municipal law, is not a part of the organic law of the land.

The source of national power in this country is the Constitution of the United States, and the Government, as to our internal affairs, poseeses no inherent sovereign power not derived from that instrument and consistent with its letter and spirit.

With reference to the paragraph in the treaty of peace declaring that "the civili

sesses no inherent sovereign power not derived from that instrument and consistent with its letter and spirit.

With reference to the paragraph in the treaty of peace declaring that "the civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress," the Chief Justice said this was nothing more than a declaration of the accepted principles of international law applicable to the status of the Spanish subjects and of the native inhabitants.

Chief Justice Fuller absolutely rejected the contention that the rule of uniformity was not applicable to Porto Rico because it had not been incorporated into and become an integral part of the United States. The word incorporation had no occult meaning, and whatever its situation before, the Foraker act made Porto Rico an organized Territory of the United States.

Result of Majority Opinion.

He could not accept the view that even after organized "Congress has the power to keep it. like a disembodied shade, in an intermediate state of ambiguous existence for an indefinite period, and more than that, that after it has been called from that limbo commerce with it is absolutely subject to the will of Congress, irrespective of constitutional provisions."

The concurring opinion of the majority recognized that "Congrese, in dealing with the people of new territories or possessions, is bound to respect the fundamental guarantees of life, liberty and property, but assumes that Congress is not bound, in those territories or possessions, to follow the rules of taxation prescribed by the Constitution. And yet the power to tax involves the power to destroy and the levy of duties touches all our people in all places under the jurisdiction of the Government."

The logical result is that Congress may prohibit commerce altogether between the States and territories, and may prescribe one rule of taxation in one territory, and a different rule in another. Continuing, he said:

go farther, and to say, that had this particular case been suggested the language would have been so varied as to exclude it, or it would have been made a special exception."

This cannot be said, and, on the contrary, in order to permit the successful extension of our institutions, the reasonable presumption is that the limitations on the exertion of arbitrary power would have been made more rigorous.

Justice Harlan Dissenting Opinion.

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It will be an evil day for American liberty if the theory of a government outside of the su-preme law of the land finds lodgement in our con-stitutional jurisprudence.

"Constitution Is Over Congress."

ascertain the meaning of a great instrument or government.

The addition of Porto Bloo to the territory of the United States has been recognized by direct action upon the part of Congress. It has legislated in recognition of the treaty with Spain. If Porto Rico did not by such action become a part of the United States it did become such, at least, when Congress passed the Foraker act. I cannot believe that Congress may impose any duty, impost or excise with respect to that territory and its people which is not consistent with the constitutional requirement that all duties, imposts and excises shall be uniform throughout the United States.

#### JUSTICE GRAY CONCURS. BRINGING OUT NEW POINT.

power would have been made more riscrous.

Justice Harlan Dissenting Opinion.

Justice Harlan Dissenting opinion just delivered by the Chief Justice. He regarded the Foraker act as unconstitutional in its revenue provisions, and believed that Porto Rico, after the ratification of the trenty with Spain, became a part of the United States. Referring to the majority views that the power of our Government with respect to new territory is the same power which other nations had been accustomed to exercise. Mr. Harlan said:

I take leave to say that if the principles now announced should ever receive the sanction of adical and mischlevous change sait will be even as soon as that possession is confirmed by treaty and policy of the exercise. In my opinion, Congress has no existence and in the error of constitution into an era of legislative absolutism, in respect of many rights that are dear to all peoples who love freedom.

In my opinion, Congress has no existence and easily the new territories just as other nations have done or may do with their own territories, this nation is under the control of a written Constitution, which is the supreme law of the said, and the only source of the powers which our Government, or any branch or officer of its and the only source of the powers which our Government may not do consistently with our fundamental law.

The idea that this country may acquire territories anywhere upon the earth, by conquest or treaty, and hold them as mere colonies or provinces, is a wholly inconsistent with the spirit and government is that it was created by a written constitution, which protects the people against of the United States.

Government is that it was created by a written constitution, which protects the people against of the United States.

#### UNDER THIS DECISION CONGRESS MIGHT EVEN IMPOSE DUTIES UPON ALASKAN IMPORTS—ATTY. GEN. GRIGGS.

Clause of the Constitution That Has Been Restricted.

The following is the revenue clause of the Constitution which the Supreme Court restricts:

"But all duties, imposts and excises shall be uniform throughout

The Supreme Court holds that this section of the Constitution

"Under this decision Congress might even impose duties upon imports from the Territory of Alaska."-Former Attorney General Griggs in a statement yesterday.



EX-ATTORNEY GENERAL GRIGGS.

#### DECISION IN THE DE LIMA SUIT HOLDS THAT PORTO RICO IS A PART OF UNITED STATES.

the United States for the District of New York. The decision was rendered on behalf of the majority of the court by Justice Brown, the opinion being concurred in by all the Justices except Justices McKenna, Shiras and White. The decision hung up-on the case coming from the State of New York involving the levying of \$13,000 in duties on goods imported from Porto Rico into the United States, the collection of the duties having been sustained by the lower court.

duties on goods imported from Porto Rico into the United States, the collection of the duties having been sustained by the lower court.

In effect the decision was that territory acquired by the United States is a part of the United States and not foreign territory, and that such import duties could not be levied. The decision of the lower court was reversed.

Justice Brown announced in the beginning of his decision that the court undoubtedly has jurisdiction in this case. He said the case raised the single question whether territory acquired by the United States by coasion from a foreign Power remained a "foreign country" within the meaning of the tariff law, and added:

The question involved in this case is not whether the sugars were importable articles under the tariff law, and added:

The question involved in this case is not within the sugars were importable articles under the tariff law, and added:

The way and the sugars were importable articles under imported from a port alleged to be domestic, they were imported from a port alleged to be domestic, they were imported from a foreign country—in other way with the sugars were imported or not, such question could not be raised before the Board of General Appraisers, and that whether they were imported merchandise for the reasons given in the Fassett case, that a vessel is not an importable article, because the merchandise was not brought from a foreign country, is immaterial. In either case the article is not imported.

Conceding, then, that section 2011 has been repealed and that no remedy exists under the customs administrative act, does it follow that no action whatever will lie? If there be an admitted wrong, the courts will look far to supply an adequate remedy. If an action lay at common law the repeal of sections 231 and 301, regulating proceedings in customs cases (that is, turning upon the classification of merchandise) to make way for another proceeding before the Board of General Appraisers in the same class of cases did not destroy any right of

The first case decided was that of Elias

8. A. De Lima et al., plaintiffs in error, against George R. Bidwell, Collector of the Pork of New York, the case coming to the Supreme Court from the Circuit Court of the United States for the District of New York. The decision was rendered on behalf of the majority of the court by Justice Storey to be one exclusively within the sovereignty of a foreign nation, and without the Justices except Justices McKenna. sovereignty of a foreign nation, and without the sovereignty of the United States.

The status of Porto Rico was this: The island had been for some months under military occupied not been for some months under military occupied not been for some months under military occupied not peace between the United States as a conquered country when, by the second article of the treaty of peace between the United States and Spain, signed December 19, 1898, and ratified April 11, 1899, spain ceded to the United States the Island of Porto Rico, which has ever since remained in our possession, and has been governed and administered without set on the season accepted, possession delivered and the island occupied and administered without is used to us, the cession accepted, possession delivered and the island occupied and administered without seem that there could be as little hesitation in answering this question as there would be in determining the ownership of a house deeded in feet gone into possession, paid taxes and made improvements without let or hindrance from his vendor. BUT IT IS EARNESTLY INSISTED BY THE GOVERNAMENT THAT IT NEVER COULD HAVE BEEN THE INTENTION OF CONGRESS TO ADMIT PORTO RICO INTO A CUSTOMS UNION WITH THE UNITED STATES. AND THAT, WHILE THE ISLAND MAY BE TO A CERTAIN EXTENT DOMESTIC TERRITORY. IT STILL REMAINS A FOREIGN COUNTRY UNDER THE TARIFF LAWS UNTILL CONGRESS HAS EMBRACED IT WITHIN THE GENERAL REVENUE SYSTEM."

Precedents.

Rico is eligible to statehood, and implies that when she fulfills the demands required adminished had been of administered which in the United States the stand of Porto Rico will not be entitled to all the privileges which seem to be warranted by the protection of United States fig.

"As to the revenue question, the verdict of the Supreme Court does not cover all the contentions. This much is certain, however, that all the revenue of the contentions. This much is certain, however, that all the revenue of the contentions of the Supreme Court does not cover all the contentions.

GENERAL REVENUE SYSTEM.

At great length the court then discussed similar cases arising from previous acquisitions of territory by the United States, and reviewed very fully former decisions of the court involving questions such as are presented in this case. The possessions in connection with which the main question favoived in this case has risen are Louisiana, Florida, Texas, California and Alaska. Each case was taken up in order and analyzed minutely. The court then presented its conclusions in the following language:

As showing the construction put upon this question by the legislative department, we need only to add that section 2 of the Forsker act makes a distinction between foreign countries and Porto Rico by enacting that the same duties shall be paid upon "all articles imported into Porto Rico from ports other than those of the Culted States," which are required by law to be collected upon articles imported into the United States from foreign countries.

From this resume of the declare of this court, the instructions of the executive departments and the above act of Congress, it is evident that, from 180, the date of Mr. Galiatin's letter, to the present time there is not a shreed of authority, except the disturn in Fleming v. Page, for holding that a disturn in Fleming to Page, for holding that a disturn in Fleming to Page, for holding that a disturn in Fleming to Page, for holding that a disturn in Fleming to Page, for holding that a disturn in Fleming to Page, for holding that a disturn in Fleming to Page, for holding that a disturn in Fleming to Page, for holding that a disturn in Fleming to Page, for holding that a disturn in Fleming to Page, for holding the content of the executive departments in for any page of the executive departments, thus conditional must exist to produce a change of nationality for revenue purposes. Possession is not alone afficient, as was held in Fleming to Page; nor is a treaty ceding such territory sufficient without a surrender of possession. The practice of the exe

as in the case of fexas and Hawall, by an act of Congress, and the congress of SENSE OF THE WORD.

Applies to New Territory.

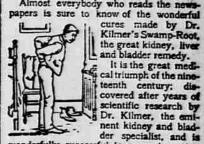
It is true Mr. Chief Justice Tancy held in Scott vs. Sandford that the territorial clause of the Constitution was confined, and intended to be confined, to the territory which at that the confined to the territory which at that the leaves of the constitution was confined, and was within their boundaries, as welled by the treaty with Great Britain, and was not intended to apply to territory subsequently acquired. He seemed to differ in this construction from Chief Justice Marshall, who, in speaking of Florida before it became a State, remarked that it continued to be a territory of the United States, governed by the territorial clause of the constitution.

But whatever he the source of the

DO YOU GET UP will be observed that no distinction is made

WITH A LAME BACK?

Kidney Trouble Makes You Miserable.



nent kidney and blad-der specialist, and is wonderfully successful in promptly curing lame back, kidney, bladder, uric acid trou-

bles and Bright's Disease, which is the worst form of kidney trouble.

Dr. Kilmer's Swamp-Root is not recommended for everything but if you have kidney, liver or bladder trouble it will be found just the remedy you need. It has been tested in so many ways, in hospital work, in private practice, among the helpless too poor to pur-chase relief and has proved so successful in every case that a special arrangement has been made by which all readers of this paper who have not already tried it, may have a sample bottle sent free by mail, also a book telling more about Swamp-Root and how to find out if you have kidney or bladder trouble. When writing mention reading this ge offer in this paper and send your address to Dr. Kilmer & Co., Binghamton, N. Y. The

regular fifty cent and Home of Swamp-Base dollar sizes are sold by all mood druggista.



the establishment of lightnuses, for the maintenance of quarantine stations, for erecting public
buildings, have that effect? Will an act establishing a complete local government, but with
the reservation of a right to collect duties upon
commerce, he adequate for that purpose? None of
these, nor all together, will be sufficient, if the
contention of the Government he sound, since acts
embracing all these provisions have been passed
in connection with Porto Rico, and it is insisted
that it is still a foreign country within the meaning of the tariff laws,
WE ARE UNABLE TO ACQUIESCE IN THIS
ASSUMPTION THAT A TERRITORY MAY BE
AT THE SAME TIME BOTH FOREIGN AND
DOMESTIC.

### MR. JUSTICE BROWN ON THE DECISIONS.

REPUBLIC SPECIAL. Washington, May 27.—Mr. Justice Brown, who delivered the opinion of the Supreme Court, in discussing the Porto Rican decisions Monday with The Republic correspondent, sald:

day is one of the most important ever ren-dered by this tribunal. Its effects will be felt generations hence. There are two parts to the verdict—first, that Porto Rico is not foreign territory; second, that Porto Rico is a Territory of the United States, and subject to all the laws and privileges which

have hitherto been exercised in our government of such possessions.

"The oft-repeated inquiry whether the natives of Porto Rico and our other newly acquired insular possessions can now enjoy all the privileges of citizens of the United States did not enter into the purview of the decisions to day. That guestion must be dedecisions to-day. That question must be de-termined later. In the meantime the na-tives of Porto Rico can enjoy all the rights which are granted to the citizens of Ari-zons, New Mexico, Oklahoma and Alaska. "This decision acknowledges that Porto Rico is eligible to statehood, and implies that when she fuifilis the demands required for admission into the Union she may be granted all the rights which follow the flag.

will be considered next fall."

DISSENTING OPINIONS

IN THE DE LIMA CASE.

Justice McKenna read a dissenting opinion in the De Lima case, stating that Justices Shiras and White joined in his views. The majority, he said, proceeded on the simple proposition that to settle whether Porto Rico is "foreign country" or "domestic territory" is to settle the controversy in litigation in the particular case. But, in his view, it could not turn on so easy a definition. Between the extremes there were other relations which Porto Rico might sustain to the United States, and it could be determined that Porto Rico occupied one of these other relations, and its products hence were subject to duties.

He cited the cases of United States vs. Rice and Fleming vs. Page, referred to by the majority, and said the latter attempted to reconcile them and dismissed a large part of Chief Justice Taney's decision in the Page case as dicta. He thought both recognized inevitable on the grant part of the food (which is necessary) products hence were subject to duties.

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The opinions expressed in Fleming vs. Page that the boundaries of our country could not be enlarged or restricted by the advance or retreat of armies, and that whether duties should be levied depended on congrition of the executive and the headwance or retreat of armies, and that whether duties should be levied depended on congress granting authority, should be accepted as wise and considerate of the distriction of the executive and the same of the control of the case of the country of the

tum? If constancy of judicial decision is necessary to regulate the relations and property rights of individuals, is not constancy of decision the more necessary when it may influence or has influenced the action of a nation?

If the other great departments of the Government must look to the judicial for light, that light should burn steadily. It should not, like the exhalations of a marshed, always had been recognized between territory acquired and that which was within the acknowledged limits of the Unibed States.

Justice McKenna then called attention to

in the acknowledged limits of the United States.

Justice McKenna then called attention to the fact that after California's annexation our customs laws had been extended over it, and asked why this was necessary if they applied of their own force.

In conclusion, Justice McKenna said these considerations, to his mind, suggested the difficulties of any such general and sweeping view as had been laid down by the majority. If correct, neither we nor the conquered nation would have any choice in the new situation—we would stand bound in a helpless fatality. The whole matter, therefore, he thought, was essentially lessislative and not judicial.

Justice Gray announced that he libewise dissented from the majority opinion, aying briefy that its judgment appeared to him irreconcilable with the unanimous opinion of this court in Fleming vs. Page and with the opinions of the majority of the Justices in the case to-day decided at Downes vs. Bidwell.

Missouri Pacific Exter

Missouri Facilité automation de la REPUBLIC SPECIAL.

Topeka, Kas., May II.—The Missouri Facific will extend its line from Lenors, in Northwest Kanssa, to Denver, A corpe et engineers began locating the line to-day. This will give from 8t. Joseph, Mo., and all Northern Kansas points a direct line to be presented.

Acquitted of Killing Postman REPUBLIC SPECIAL, Ardmore, I. T., May 77.—Sam Ashtr acquitted to-day at Paul's Valley of Postmaster Dismukes at Iona. This was the eleventh murder cas this term before Judge Thomas a only acquittal.

KNEW THE WAY OUT. Made a Study of His Food.

It is not always that the user of food understands about that food, but a gentleman in Cincinnati writing about Grape-Nuts expresses himself perfectly. He says: "A bariness man devoting himself to hard manual